

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF DELAWARE**

MICHAEL NINIVAGGI, JAKE MICKEY and
CAILIN NIGRELLI, HANNAH RUSSO,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

UNIVERSITY OF DELAWARE,

Defendant.

Civil Action No. 20-cv-1478-SB

**PLAINTIFFS' RESPONSE TO DEFENDANT UNIVERSITY OF DELAWARE'S
MOTION TO STAY PENDING APPEAL OF THE COURT'S
CLASS CERTIFICATION DECISION**

Plaintiffs Michael Ninivaggi, Jake Mickey, Cailin Nigrelli and Hannah Russo (the "Class Representatives") respectfully submit this response to Defendant University of Delaware's ("the University" or "UD") April 14, 2023 Motion to Stay proceedings in this case pending the resolution of an appeal of this Court's recent class certification decision. ECF No. 141.

On March 31, 2023, the Court granted Plaintiffs' Motion for Class Certification, certifying a class defined as: "[a]ll undergraduate students enrolled in classes at the University of Delaware during the Spring 2020 semester who paid tuition." ECF No. 139. Thereafter, on April 14, 2023, the University filed a Petition for Permission to Appeal Pursuant to Rule of Civil Procedure 23(f). That same day, Defendant filed a Motion to Stay pending a decision on its 23(f) petition. Plaintiffs intend to file an opposition to the 23(f) petition on April 24, 2023.

Although Plaintiffs disagree that a review of the Court's class certification decision is warranted, or that an appeal, if heard, will be successful, Plaintiffs do not oppose a stay of these proceedings pending the resolution of the University's 23(f) petition. Staying the proceedings

will not burden Plaintiffs or class members and may serve to avoid multiple rounds of notice and unnecessary work from counsel and the Court.

Dated: April 18, 2023

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